IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

Crl.L.P..No. 654 of 2006()

C.C.NO.3/2006 OF JFCM-III, KOTTARAKKARA

PETITIONER/COMPLAINANT:

D. GEORGE,
VATTAVILA VEEDU, KARIKKOM,
ULIYANADU MURI, VETTIKAVALA VILLAGE.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)

RESPONDENTS: STATE AND ACCUSED:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. P. SASIKUMAR,
MUKKALIL VEEDU, IRINGOOR MURI, MELILA VILLAGE.

R1-BY P.P.SRI.P.M. NAZER

THIS CRIMINAL LEAVE PETITION HAVING COME FOR ADMISSION ON 08/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. THANKAPPAN, J.

Crl.L.P.No.654 OF 2006

Dated this the 8th day of December, 2006.

O R D E R

Petitioner is the complainant in C.C.No.3/2006 on the file of the Judicial Magistrate of First Class-III, Kottarakkara. The allegation in the above calendar case is that the petitioner had given an amount of Rs.1,50,000/= to the 2nd respondent and in discharge of the above said amount, Ext.P1 cheque was issued in favour of the petitioner. To prove this case, the petitioner was examined himself as PW1 and relied on Exts.P1 to P5. On closing the prosecution evidence, the 2nd respondent was questioned under Section 313. No witness was examined but proved Ext.D1 sale deed. The case set up by the 2nd respondent is that the complainant and himself had a transaction with regard to the property measured about 1.5 cents and a shop building and the same properties were purchased for and on behalf of the brother of the petitioner and his father. Further it is the case of the 2nd respondent that at the time of the above transaction, the petitioner insisted for a blank signed cheque and the property so

purchased was for a sale price of Rs. Five lakhs. The 2nd respondent had stated before this Court that the cheque he had issued during the transaction relating to the property is misused by the petitioner and the cheque issued is for an amount of Rs.1,50,000/=. Ext.D1 sale deed would show that the property has been purchased for and on behalf of the brother of the petitioner. The learned Magistrate had found that the petitioner failed to prove that Ext.P1 cheque was issued by the 2nd respondent in discharge of a legally enforcible debt.

In the above circumstances, this Court is of the view that the judgment of the trial court deserves no interference. Accordingly, the special leave application stands dismissed.

K. THANKAPPAN, JUDGE.

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